



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA-R04-OAR-2022-0741; FRL-10507-01-R4]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; South Carolina; Control of Emissions from Existing Municipal Solid Waste Landfills

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a Clean Air Act (CAA) section 111(d) plan submitted by the South Carolina Department of Health and Environmental Control (SCDHEC) on January 19, 2022. This state plan was submitted to fulfill the requirements of the CAA and is responsive to EPA's promulgation of Emissions Guidelines and Compliance Times for municipal solid waste (MSW) landfills. The South Carolina state plan establishes emission limits for existing MSW landfills and provides for the implementation and enforcement of those standards and requirements.

**DATES:** Written comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2022-0741 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file

sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Tracy Watson, Communities and Air Toxics Section, Air Analysis and Support Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth St., SW, Atlanta, Georgia 30303. The telephone number is (404) 562-8998. Mr. Watson can also be reached via electronic mail at [watson.marion@epa.gov](mailto:watson.marion@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On August 29, 2016, EPA finalized revised Standards of Performance for new MSW landfills and Emission Guidelines and Compliance Times for existing MSW landfills in 40 CFR part 60 subpart XXX and Cf, respectively (81 FR 59332 and 81 FR 59276). These actions were taken in accordance with section 111 of the CAA.

Section 111(d) of the CAA requires EPA to establish a procedure for a state to submit a plan to EPA which establishes standards of performance for any existing source of any air pollutant: 1) for which air quality criteria have not been issued or which is not included on a list published under CAA section 108 or emitted from a source category which is regulated under CAA section 112, but 2) to which a standard of performance under CAA section 111 would apply if such existing source were a new source. EPA established these requirements for state plan submittals in 40 CFR part 60, subpart B. State submittals under CAA sections 111(d) must be consistent with the relevant emission guidelines, in this instance 40 CFR part 60, subpart Cf, and the requirements of 40 CFR part 60, subpart B and 40 CFR part 62, subpart A. If the state plan is complete and approvable with reference to these requirements, EPA notifies the public, promulgates the plan pursuant to 40 CFR part 62, and delegates implementation and enforcement of the standards and requirements of the emission guidelines to the state under the terms of the

state plan as published in the CFR.

On January 19, 2022, the SCDHEC submitted to EPA a formal section 111(d) plan for existing MSW landfills. The section 111(d) plan was submitted in response to the August 29, 2016, promulgation, and the March 26, 2020, subsequent amendments, of the emission guidelines requirements for MSW landfills, 40 CFR part 60, Cf (81 FR 59276 and 85 FR 17244, respectively).

## **II. Summary and Analysis of the Plan Submittal**

EPA has reviewed the South Carolina section 111(d) plan submittal in the context of the plan completeness and approvability requirements of 40 CFR part 60, subparts B and Cf, and part 62, subpart A. EPA is proposing to determine that the submitted section 111(d) plan meets the above cited requirements. The South Carolina state plan submittal package includes all materials necessary to be deemed administratively and technically complete according to the criteria of 40 CFR 60.27. Included within the section 111(d) plan are regulations under the South Carolina Code of State Regulations Annotated (S.C. Code Ann. Regs.) specifically, S.C. Code Ann. Regs. 61-62.60, Subpart Cf – “Performance Standards and Compliance Times for Existing Municipal Solid Waste Landfills.” South Carolina houses its implementation and enforcement authority for the state plan requirements in this regulation. In this action, EPA is proposing to incorporate by reference S.C. Code Ann. Regs. 61-62.60, Subpart Cf, which became effective in the State of South Carolina on November 26, 2021. A detailed explanation of the rationale behind this proposed approval is available in the Technical Support Document (TSD) included in the docket for this action.

## **III. Proposed Action**

EPA is proposing to approve the South Carolina section 111(d) plan for MSW landfills pursuant to 40 CFR part 60, subparts B and Cf. Therefore, EPA is proposing to amend 40 CFR part 62, subpart PP to reflect this action. This approval is based on the rationale previously discussed and in further detail in the TSD associated with this action.

The EPA Administrator continues to retain authority for approval of alternative methods to determine the nonmethane organic compound concentration or a site-specific methane generation rate constant (k), as stipulated in 40 CFR § 60.30f(c).

#### **IV. Incorporation by Reference**

In this document, EPA is proposing to include regulatory text that incorporates by reference the state plan. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference S.C. Code Ann. Regs. 61-62.60, Subpart Cf, which became effective in the State of South Carolina on November 26, 2021. The regulatory provisions of this section of the South Carolina rule incorporate all the CAA 111(d)/129 state plan elements required by the EG for existing MSW landfill units promulgated at 40 CFR part 60, subpart Cf. The emissions standards and compliance times established within the South Carolina state plan are at least as stringent as those required by the EG for existing MSW landfill units subject to subpart Cf. EPA has made, and will continue to make, these materials generally available through the docket for this action, EPA-R04-OAR-2022-0741, at <https://www.regulations.gov> and at EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

#### **V. Statutory and Executive Order Reviews**

In reviewing state plan submissions, EPA’s role is to approve state choices, provided they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed approval of South Carolina's state plan for existing MSW landfills does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the state plan is not approved to apply in Indian country located in the state, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## **List of Subjects in 40 CFR Part 62**

Administrative practice and procedure, Air pollution control, Environmental protection, Landfills, Incorporation by reference, Intergovernmental relations, Methane, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 3, 2023.

**Daniel Blackman,**  
Regional Administrator  
Region 4.

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